

§ 780.722

workweek is a fixed and regularly recurring interval of seven consecutive 24-hour periods. It may begin at any hour of any day set by the employer and need not coincide with the calendar week. Once the workweek has been set it commences each succeeding week on the same day and at the same hour. Changing the workweek for the purpose of escaping the requirements of the Act is not permitted.

§ 780.722 Exempt workweeks.

An employee performing work for an establishment commonly recognized as a country elevator is exempt under section 13(b)(14) in any workweek when he is, for the entire workweek, employed “by” such establishment, if no more than five employees are “employed in the establishment in such operations”, and if the “area of production” requirement is met.

§ 780.723 Exempt and nonexempt employment.

Under section 13(b)(14), where an employee, for part of his workweek, is employed “by” an “exempt” establishment (one commonly recognized as a country elevator which has five employees or less employed in the establishment in such operations in that workweek) and the employee is, in his employment by the establishment, employed “within the area of production” as defined by the regulations, but in the remainder of the workweek is employed by his employer in an establishment or in activities not within this or another exemption provided by the Act, in the course of which he performs any work to which the Act applies, the employee is, not exempt for any part of that workweek (see *Mitchell v. Hunt*, 263 F. 2d 913; *Waialua v. Maneja*, 77 F. Supp. 480; *Walling v. Peacock Corp.*, 58 F. Supp. 880; *McComb v. Puerto Rico Tobacco Marketing Co-op. Ass’n*, 181 F. 2d 697).

§ 780.724 Work exempt under another section of the Act.

Where an employee’s employment during part of his workweek would qualify for exemption under section 13(b)(14) if it continued throughout the workweek, and the remainder of his workweek is spent in employment

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which, if it continued throughout the workweek, would qualify for exemption under another section or sections of the Act, the exemptions may be combined (see *Remington v. Shaw* (W.D. Mich.) 2 WH Cases 262). The employee, however, qualifies for exemption only to the extent of the exemption which is more limited in scope (see *Mitchell v. Hunt*, 263 F. 2d 913). For example, if part of the work is exempt from both minimum wage and overtime compensation under one section of the Act and the rest is exempt only from the overtime pay provisions under another section, the employee is exempt that week from the overtime provisions, but not from the minimum wage requirements. In this connection, attention is directed to another exemption in the Act which relates to work in grain elevators, which may apply in appropriate circumstances, either in combination with section 13(b)(14) or to employees for whom the requirements of section 13(b)(14) cannot be met. This other exemption is that provided by section 7(c). Section 7(c), which is discussed in part 526 of this chapter, provides a limited overtime exemption for employees employed in the seasonal industry of storing grain in country grain elevators, public terminal and sub-terminal elevators, wheat flour mills, nonelevator bulk storing establishments and flat warehouses, § 526.10(b)(14) of this chapter.

Subpart I—Employment in Ginning of Cotton and Processing of Sugar Beets, Sugar-Beet Molasses, Sugarcane, or Maple Sap into Sugar or Syrup; Exemption From Overtime Pay Requirements Under Section 13(b)(15)

INTRODUCTORY

§ 780.800 Scope and significance of interpretative bulletin.

Subpart A of this part 780 and this subpart I constitute the official interpretative bulletin of the Department of Labor with respect to the meaning and application of section 13(b)(15) of the Fair Labor Standards Act of 1938, as